

District
Director

Person to Contact: [REDACTED]

Telephone Number: [REDACTED]

Refer Reply to: [REDACTED]

Date:

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal revenue Code of 1986.

The information submitted discloses that you were incorporated under the nonprofit corporation laws of the State of [REDACTED] on [REDACTED].

Article Four of your articles of incorporation states that your organization was formed:

- "1. To construct, own, build, operate, conduct and carry on a golf club and golf course for the use and benefit of the public generally.
2. To build, own, operate and conduct a clubhouse, restaurant, locker rooms and garage in connection with the golf course.
3. To construct, own, build, operate and conduct any and all other recreational activities and projects deemed beneficial to the community of [REDACTED] and its environs.
4. To promote and encourage all kinds of sport, pleasure, exercise and recreation for its members and public.
5. To conduct amusement enterprises in all of the branches pertaining thereto and thereof.
6. This association is organized exclusively for pleasure, recreation and other nonprofitable purposes, substantially all of the activities of which are for such purposes and no part of its net earnings shall inure to the benefit of any private individuals or members; and,
7. Upon dissolution or winding up of this organization, after satisfying all of its liabilities, the remaining assets shall be distributed to the similar organization as defined in section 501(c)(7) of the Internal Revenue Code."

Code	Initiator	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer	Reviewer
Surname	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]	[REDACTED]
Date	10-10-90	10/15/90	10-17-90	10/18/90	10/18/90		

Form 1937-A (Rev. 6-80) Correspondence Approval and Clearance

Department of the Treasury / Internal Revenue Service

[REDACTED]

Your organization's planned activities consist of constructing and operating a golf course and driving range along with a clubhouse for use by the general public. You will sell season memberships, as well as charge green fees and cart rentals. You will also conduct golf tournaments and fund-raisers. The fund-raisers will be conducted only to repay loans acquired for the above stated purposes. The course is planned to be self-funded.

Section 501(c) of the Internal Revenue Code of 1986 describes certain organizations exempt from income tax under section 501(a) and reads, in part, as follows:

"(3) Corporations, and any community chest, fund or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary, or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), or for the prevention of cruelty to children or animals, no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on propaganda, or otherwise attempting to influence legislation (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distributing of statements), any political campaign on behalf of any candidate for public office."

The Income Tax Regulations applicable to section 501(c)(3) of the Code provide that an organization must be both organized and operated exclusively for one or more of the purposes specified in that section. If it fails to meet either the organizational or the operational test, it is not within the purview of the statutes.

The Regulations further provide that an organization is not organized exclusively for one or more exempt purposes if its articles expressly empower it to carry on, otherwise than as an insubstantial part of its activities, activities which are not in furtherance of one or more exempt purposes.

Regulations section 1.501 (c)(3)-(b)(4) further states that:

"An organization is not organized exclusively for one or more exempt purposes unless its assets are dedicated to an exempt purpose. An organization's assets will be considered dedicated to an exempt purpose, for example, if upon dissolution, such assets would, by reason of a provision in the organization's articles or operation of law, be distributed for one or more exempt purposes..."

Revenue Ruling 59-310, 1959-2 C.B. 146 held that a nonprofit organization formed for the purpose of establishing, maintaining and operating a public swimming pool, playground and other recreational facilities, for the children and other residents of the community is exempt from Federal income tax as an organization described in section 501(c)(3) of the Code. Residents of the community making use of such facilities consist principally of low income groups who are unable to pay the cost of privately sponsored recreation facilities for themselves and their children. The funds of the organization are raised by donations with the exception of nominal charges made for admission to the swimming pool.

We have concluded that you are not entitled to exemption from Federal income tax as an organization described in section 501(c)(3) of the Code, inasmuch as you are not organized and operated exclusively for one or more of the exempt purposes specified in that section.

You do not meet the organizational test as your governing instrument, your articles of incorporation, does not limit your purposes to those purposes as contemplated by section 501(c)(3) of the Code and your net assets, upon dissolution, are not dedicated to one or more exempt purposes as specified in section 501(c)(3) of the Code. Rather, they are to be distributed to an organization described in section 501(c)(7) of the Code.

You do not meet the operational test in that operating a golf course in the manner you plan is not considered "charitable" within the meaning of section 501(c)(3) of the Code. Although membership in your organization is only \$[REDACTED] and your facilities are open to the public, the use of the facilities are contingent upon paying the necessary fees for such use. Fees are not nominal but are based upon the costs of operating the facilities. Thus you differ from the organization described in Revenue Ruling 59-30 in that you are not providing your facilities to residents who are unable to afford such facilities. In fact, your golf course is planned to be self-funded with little reliance on donations (except for the fund-raisers planned to repay loans).

You are required to file Federal income tax returns annually, with your Service Center.

Contributions to you are not deductible by the donors as charitable contributions as defined in section 170(c) of the Code.

As provided by section 6104(c) of the Internal Revenue Code of 1986 and the applicable regulations, the appropriate State Officials are being notified of our determination.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed agreement Form 6018. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals.

Your request for a hearing should include a written appeal giving the facts, law, and and other information to support your position as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals or, if you request, at a mutually convenient District Office. A self-addressed envelope is enclosed.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Internal Revenue Code provides in part that, "A declaratory judgement or decree under this section shall not be issued in any proceeding unless the tax court, the Court of Claims, or the district court of the United States or the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,

District Director

Enclosures:
Publication 892
Form 6018